



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2014-0165; FRL-9910-67-Region-7]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for the State of Iowa. This action will amend the SIP to include revised permitting regulations to allow facilities to construct or modify existing sources in areas that are not in attainment with the National Ambient Air Quality Standards. The rule revisions incorporate Federal regulation by reference. The provisions from previous nonattainment permitting rules are being retained and are now relocated to Chapter 31 "Nonattainment Areas". EPA is also acting to approve the SIP to update the rule revisions for the definition of excess emissions and conformity of general actions rule.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE **Federal Register**], without further notice, unless EPA receives adverse comment by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE **Federal Register**].

If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2014-0165, by one of the following methods:

1. www.regulations.gov. Follow the on-line instructions for submitting comments.
2. Email: Algoe-eakin.amy@epa.gov
3. Mail or Hand Delivery: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2014-0165. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or email information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going

through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the

office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7942, or by email at Algoe-eakin.amy@epa.gov

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is EPA Taking?

I. What is Being Addressed in this Document?

The Iowa Department of Natural Resources requested the SIP be amended to include revisions to the following air quality rules: Chapter 20, "Scope of Title-Definitions-Forms-Rules of Practice," Chapter 22, "Controlling Pollution," Chapter 31, "Nonattainment Areas," and Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources-Prevention for Significant Deterioration of Air Quality."

The rule revisions adopt, by reference, regulation from 40 CFR 51.165 to incorporate review and permitting procedures that allow facilities to construct or modify existing sources in areas that are not in attainment with the National Ambient Air Quality Standards. The modifications were intended to streamline

the rules and to make them more user-friendly. One of the most significant rule changes is that the nonattainment permitting rules are being moved to Chapter 31, "Nonattainment areas." Iowa previously adopted requirements for nonattainment areas in rule 567-22.5(455B), and the provisions of this rule are retained as permits issued during previous nonattainment declarations remain in effect. The content of rule 567-22.5(455B) is rescinded, and the content moved to 31.20. To be clear, the content remains unchanged and the state's rules for nonattainment major New Source Review are no more or less stringent than the Federal regulations when the area was designated as nonattainment. The requirements for areas designated nonattainment after May 18, 1998 are in rules 567-31.3(455B) to 567-31.9 (455B). In addition, 567-20.1 updates information about the content of Chapter 22 and 31 and 567-20.2 which revises the definition of "excess emissions" to update the references to the nonattainment major NSR and prevention of significant deterioration rules. The state is also updating references to the conformity of general actions rule. Additional rule revisions are more general and administrative in nature. Those revisions include updating references and introductory rule language to synchronize with the transitioning of rule content; removing references to outdated guidance; and updating the list of attainment and unclassifiable areas in the state.

II. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What Action is EPA Taking?

EPA is approving revisions to the SIP for the State of Iowa. This rulemaking adopts regulations to be consistent with Federal review and permitting procedures that allow facilities to construct or modify existing sources in areas that are not in attainment with the NAAQS. Although incorporated by reference, a new chapter will include all nonattainment permitting regulations for the ease of the reader. References related to Federal regulations are being updated, including references in the definition of excess emission, and conformity of general actions rule.

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to

approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will

submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its

requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Air Quality, Prevention of significant deterioration, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 29, 2014.

Karl Brooks,
Regional Administrator,
Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - [APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart Q - Iowa

2. In 52.820, the table in paragraph (c) is amended by:

a. Revising entries "567-20.1", "567-20.2", "567-22.1", "567-22.5", "567-31.1", "567-31.2", and "567-33.1"; and

b. Adding entries "567-31.3", "567-31.4", "567-31.9", "567-31.10", and "567-31.20".

The revisions and additions to read as follows:

52.820 Identification of plan.

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(c) * * *

EPA-APPROVED IOWA REGULATIONS

Citation	Title	State Effective Date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
Chapter 20--Scope of Title-Definitions-Forms-Rule of Practice				
567-20.1	Scope of Title	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	This rule is a non-substantive description of the Chapters contained in the Iowa rules. EPA has not approved all of the Chapters to which this rule refers.
567-20.2	Definitions	1/15/2014	[insert date of Federal Register	The definitions for anaerobic lagoon,

			publication and insert Federal Register page number where the document begins]	odor, odorous substance, odorous substance and greenhouse gas are not SIP approved.
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Chapter 22 – Controlling Pollution				
567-22.1	Permits Required for New or Existing Stationary Sources.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
* * * * *				
567-22.5	Special Requirements for Nonattainment Areas.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	Rescinded and Moved to 567-31.20
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Chapter 31–Nonattainment Areas				
567-31.1	Permit Requirements Relating to Nonattainment Areas.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
567-31.2	Conformity of General Federal Actions to the Iowa SIP or Federal Implementation Plan.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
567-31.3	Nonattainment new source review requirements for areas designated nonattainment on or after May 18, 1998.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
567-31.4	Preconstruction Review Permit Program.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
567-31.9	Actual PALs	1/15/2014	[insert date of Federal Register	

			publication and insert Federal Register page number where the document begins]	
567- 31.10	Validity of Rules.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
567- 31.20	Special requirements for nonattainment areas designated before May 18, 1998.	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
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Chapter 33—Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality				
567-33.1	Purpose	1/15/2014	[insert date of Federal Register publication and insert Federal Register page number where the document begins]	
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